IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18297 of 2004

Between:

1 Jana Mastanamma, W/o. Late Subbaramaiah,
R/o. Kakivaripalem Village, Chillakur Mandal, Nellore Dist.
2 N. Ramaiah, S/o. Kasturaiah,
R/o. Kakivaripalem Village, Chillakur Mandal, Nellore Dist.

..... PETITIONERS

AND

1 The Inspector, Endowments Dept., Guduru, Nellore Dist.
2 The Revenue Divisional Officer, Guduru, Nellore District.
3 Sri Bheemashwara Swamy Vari Temple, Kakivaripalem (v) rep. by its Executive Officer, Chillakuru Mandal, Nellore Dist.
4 The Asst. Commissioner of Endowments Dept., Guduru, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus; i) declaring the action of the Respondent authorities in issuing the notice dt. 28.9.2004 for auction of lease hold rights for an extent of Ac.3-99 cents in Sy.Nos. 337-1, 337-4 on 305-2, 305-7, 305-9, kakivaripalem village, Chillakuru Mandal, Nellore district, as arbitrary illegal, violative of the articles 14, 21 and 300A of the constitution of India and consequently direct the Respondent authorities to permit the petitioners to purchase the land Ac.2-14 cents and Ac.1-85 cents respectively in Sy.Nos.337-1, 337--3 & 337-4 situated at Kakivaripalem village, Chillakuru Mandal, Nellore Dist.

Counsel for the Petitioners: MR.A.SUDERSHAN REDDY

Counsel for the Respondent No.1.2 and 4: GP FOR ENDOWMENTS

Counsel for the Respondent No.3 : Smt. N.Indrani.

The Court made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the 3rd respondent as well as learned Government Pleader appearing for the respondents 1, 2 and 4.

As can be seen from the material on record, the petitioners, who claim to be the cultivating tenants, are in occupation of an extent of Ac.2-14 cents and Ac.1-85 cents (totalling Ac.3-99 cents) of land respectively situated in Sy.Nos.337/1, 337/3 & 337/4 and 305/2, 305/7 & 305/9 respectively of Kakivaripalem village, Chillakuru Mandal, Nellore District belonging to the 3rd respondent-Temple.

The contention raised by the petitioners is that being landless poor persons, they are entitled to the benefit of Section 82 (2) of the A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') and therefore the 3rd respondent is not entitled either to dispossess them or to put the leasehold rights of the land in question to public auction.

Whether the petitioners are landless poor persons as defined under the Explanation to Section 82 (2) of the Act and whether they are entitled to the protection under the said provision is a matter for enquiry by the 4th respondent and cannot be gone into by this Court.

Accordingly, without expressing any opinion with regard to the claim of

the petitioners, the writ petition is disposed of granting liberty to the petitioners to make a claim before the 4th respondent-Assistant Commissioner of Endowments, Nellore, Nellore District, within a period of two weeks from today, in which event, the same shall be considered in accordance with law and appropriate orders be passed within a period of two weeks thereafter. Till such time, status quo obtaining as on today as to the nature and possession of the lands in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

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08-11-2004

klp

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To

1 The Inspector, Endowments Dept., Guduru, Nellore Dist.
2 The Revenue Divisional Officer, Guduru, Nellore District.
3 Sri Bheemashwara Swamy Vari Temple, Kakivaripalem (v) rep. by its Executive Officer, Chillakuru Mandal, Nellore Dist.
4 The Asst. Commissioner of Endowments Dept., Guduru, Nellore District.

5. 2CCs to G.P. for Endowments, High Court buildings,

Hyderabad.(OUT).

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